

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
TMI Communications and Company, Limited)	File Nos. SAT-ASG-20021211-00238
Partnership, and TerreStar Networks, LLC)	SAT-AMD-20061127-00143
)	
Application for Modification of Spectrum)	Call Sign: LOI-TMI
Reservation for 2 GHz Mobile Satellite Service)	
System)	

ORDER

Adopted: May 10, 2007

Released: May 10, 2007

By the Chief, Satellite Division, International Bureau:

I. INTRODUCTION

1. This *Order* grants a request filed by TMI Communications and Company, Limited Partnership (“TMI”), and TerreStar Networks, LLC (“TerreStar”). In their request, TMI and TerreStar seek approval in connection with revised ownership and business arrangements for TMI’s 2 GHz mobile satellite service (“MSS”) system. The Commission has reserved a total of 20 MHz of spectrum for use by TMI’s system,¹ which is licensed by Canada. We find that the revised ownership and business arrangements do not alter our previous determination that reserving this spectrum is in the public interest, and grant TMI and TerreStar’s request. Based upon the revised ownership and business arrangements, and the substantial progress in system construction, we modify the spectrum reservation to list it in TerreStar’s name, and remove a requirement that TMI guarantee system construction costs.

II. BACKGROUND

2. In 2001, the Commission granted a request from TMI to reserve spectrum in the 2 GHz frequency bands for use, in the United States, by TMI’s proposed MSS system.² The spectrum reservation was declared null and void by the International Bureau in 2003, but was reinstated, with

¹ TMI Communications and Company, Limited Partnership, Letter of Intent to Provide Mobile-Satellite Service in the 2 GHz Bands, *Order*, 16 FCC Rcd 13808 (Int’l Bur., 2001) (*TMI Order*), *declared null and void*, TMI Communications and Company, Limited Partnership, *Order*, 18 FCC Rcd 1725 (Int’l Bur. 2003) (*TMI Milestone Order*), *reinstated*, TMI Communications and Company, Limited Partnership and TerreStar Networks Inc., Application for Review and Request for Stay, *Memorandum Opinion and Order*, 19 FCC Rcd 12603 (2004) (*TMI Reinstatement Order*), *modified*, Use of Returned Spectrum in the 2 GHz Mobile Satellite Service Frequency Bands, *Memorandum Opinion and Order*, 20 FCC Rcd 19696 (2005)(*2 GHz Returned Spectrum Order*).

² *TMI Order*, 16 FCC Rcd at 13816 (para. 23).

conditions, by the Commission in 2004.³ In 2005, the Commission increased the amount of spectrum reserved for TMI's system, using spectrum made available when other 2 GHz MSS systems surrendered their claims.⁴

3. TMI, a Canadian company, is a wholly owned subsidiary of BCE, Inc., a publicly traded Canadian corporation. Industry Canada issued TMI an approval-in-principle for a 2 GHz MSS system in May 2002.⁵ TMI also entered into business arrangements with TerreStar,⁶ a Delaware corporation in which TMI had an indirect, non-controlling ownership interest. Based on these arrangements, TerreStar entered into a satellite manufacturing agreement, with Space Systems/Loral, Inc., for a 2 GHz MSS satellite, on July 14, 2002.⁷ In connection with the *TMI Reinstatement Order*, TMI provided a guarantee for construction costs of the satellite.

4. TMI, TerreStar, and the parties having ownership interests in TerreStar have continued to refine their business arrangements in the ensuing years. The parties reported a number of changes in the ownership of TerreStar in recent years.⁸ As a result, TerreStar is currently owned approximately 70 percent by Motient Ventures Holding, Inc., a U.S. company, approximately 15 percent by SkyTerra Communications, Inc., also a U.S. company, and approximately 15 percent by TMI. In a request filed November 27 of this year, TMI and TerreStar also reported plans for changes to the business arrangements for the Canadian companies involved in the venture. Under the revised arrangement, TMI will assign its Canadian approval-in-principal to TerreStar Networks (Canada), Inc. ("TerreStar Canada"). TerreStar owns 20 percent of TerreStar Canada directly, and a 33-1/3 percent interest in TerreStar's 80 percent shareholder, TerreStar Network Holdings (Canada) Inc ("TerreStar Canada"). These interests represent the maximum ownership by non-Canadian interests currently permitted under Canadian law. TMI owns the remaining 66-2/3 percent interest in TerreStar Canada. Industry Canada approved the assignment of the approval-in-principal to TerreStar Canada on April 5, 2007.⁹

³ TMI Reinstatement Order.

⁴ 2 GHz Returned Spectrum Order.

⁵ Letter of Jan Skora, Director General, Radiocommunications and Broadcasting Regulatory Branch, Industry Canada, to Ted H. Ignacy, Vice-President, Finance, TMI Communications Inc. dated May 6, 2002, submitted to the Commission as attachment to Letter of Gregory C. Staple, Counsel, TMI to Marlene H. Dortch, Secretary, FCC, filed August 27, 2002.

⁶ The agreement was with TerreStar Networks Inc., TerreStar's predecessor in interest.

⁷ These arrangements are more fully described in the *TMI Reinstatement Order*, 19 FCC Rcd at 12610-12611 (paras. 17-21).

⁸ See letter from Gregory C. Staple, counsel for TMI, and Henry Goldberg, counsel for TerreStar, to Marlene H. Dortch, Secretary, FCC (October 25, 2006); letter from Gregory C. Staple, counsel for TMI, and Henry Goldberg, counsel for TerreStar, to Marlene H. Dortch, Secretary, FCC (June 15, 2005); letter from Gregory C. Staple, counsel for TMI, and Matthew S. DelNero, counsel for TerreStar, to Marlene H. Dortch, Secretary, FCC (April 18, 2005); letter from Gregory C. Staple, counsel for TMI, and Matthew S. DelNero, counsel for TerreStar, to Marlene H. Dortch, Secretary, FCC (March 11, 2005); letter from Gregory C. Staple, counsel for TMI, and Matthew S. DelNero, counsel for TerreStar, to Marlene H. Dortch, Secretary, FCC (Dec. 13, 2004).

⁹ Letter from Michael D. Connolly, A/Director General, Radiocommunications and Broadcasting Regulatory Branch, Industry Canada, to Steven Nichols, Executive Vice-President, Operations, TerreStar Canada, dated April (continued....)

5. TMI and TerreStar seek approval for these revised arrangements, and ask that the spectrum reservation now be listed in TerreStar's name. This request was placed on public notice on January 19, 2007.¹⁰ No comments were filed.

III. DISCUSSION

6. We have reviewed the revised ownership and business arrangements for the proposed Canadian 2 GHz MSS system, and conclude that reserving spectrum for its operations in the United States continues to serve the public interest. Furthermore, given the close affiliation between TerreStar and TerreStar Canada, listing the spectrum reservation in TerreStar's name presents no significant issues. The material submitted by TMI and TerreStar indicates that TerreStar is in a position to speak definitively for the various companies involved in the Canadian 2 GHz satellite venture. The Commission's records will be revised accordingly.

7. We will also relieve TMI and its successor-in-interest, TerreStar Canada, from the requirement, imposed in the *TMI Reinstatement Order*, that TMI obligate itself to cover future satellite construction contract expenditures. At the time this condition was imposed, the Canadian 2 GHz satellite venture was at a relatively early stage. Moreover, the somewhat unusual arrangements involved, with TMI not being a party to the satellite manufacturing agreement, and holding a substantial but less than controlling interest in TerreStar, necessitated the additional assurance that construction costs would be covered by the holder of the Canadian approval-in-principal. With substantial progress in satellite construction and system implementation having occurred¹¹ and based on the revisions to the associated ownership and business arrangements, this guarantee is no longer necessary.

IV. CONCLUSION AND ORDERING CLAUSES

8. Accordingly, IT IS ORDERED that, pursuant to Sections 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 303(r), and Sections 1.2 and 25.137 of the Commission's rules, 47 C.F.R. §§ 1.2, 25.137, this Order IS ADOPTED.

9. IT IS FURTHER ORDERED that the action taken in paragraph 23 of the *TMI Order*,¹² as modified by the *TMI Reinstatement Order*,¹³ and the *2 GHz Returned Spectrum Order*,¹⁴ IS FURTHER MODIFIED to read as follows:

(Continued from previous page) _____

27, 2007, submitted to the Commission as an attachment to a letter from Joseph Godles, counsel for TerreStar, to Marlene Dortch, Secretary, FCC, dated May 1, 2007.

¹⁰ Report No. SAT-00414 (January 19, 2007).

¹¹ See TMI and TerreStar comments filed April 2, 2007, in WT Docket No. 02-55, at 5 (satellite is 85 percent completed).

¹² *TMI Order*, 16 FCC Rcd at 13816 (para. 23).

¹³ *TMI Reinstatement Order*, 19 FCC Rcd at 12623 (para. 60).

¹⁴ *2 GHz Returned Spectrum Order*, 20 FCC Rcd 19696 at 19726 (para. 67).

* * * TerreStar Networks, LLC, IS RESERVED radio-frequency spectrum to operate its proposed mobile-satellite system to provide service in the United States in the 2000-2020 MHz and 2180-2200 MHz frequency bands, in accordance with the technical specifications set forth in its Letter of Intent, as amended, and the conditions set forth in the preceding paragraphs [of the *TMI Authorization*] and consistent with our rules, unless specifically waived herein, and subject to the following conditions:

- (a) TerreStar Networks, LLC shall choose a Selected Assignment in each of the 2000-2020 MHz and 2180-2200 MHz frequency bands upon commencing operation of a 2 GHz MSS satellite in its authorized orbit location;
- (b) The Selected Assignments will give TerreStar Networks, LLC access to 10 megahertz of contiguous spectrum in each direction of transmission on a primary basis;¹⁵
- (c) Each Selected Assignment shall be chosen so that a band edge of the assignment coincides with an edge of the encompassing 2 GHz MSS band or is an integer multiple of 10 megahertz from an edge of the 2 GHz MSS band; and
- (d) Operation in frequencies in these bands outside the Selected Assignments shall be on a secondary basis to operations of other 2 GHz MSS systems.

10. This Order is effective upon release. Petitions for reconsideration under Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, may be filed within 30 days of the date of the release of this Order. (*See* 47 C.F.R. § 1.4(b)(2).)

FEDERAL COMMUNICATIONS COMMISSION

Robert G. Nelson
Chief, Satellite Division
International Bureau

¹⁵ This specification of service-link spectrum may be subject to adjustment after disposition of pending petitions for reconsideration and judicial review, and is without prejudice to resolution of further milestone issues or disposition of pending applications.